



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,767	08/24/2001	William E. Klunk	076333-0281	8947

7590

11/05/2002

Stephen A. Bent
FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, DC 20007-5109

EXAMINER

JONES, DAMERON LEVEST

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 11/05/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,767

Applicant(s)

KLUNK ET AL.

Examiner

D. L. Jones

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-130 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☒ Claim(s) 57-59,65-75, 84, 106, 111, 113, 114, and 117-124 is/are allowed.
- 6) ☒ Claim(s) 44,63,64,81 and 117 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6. 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims withdrawn from consideration are 45-56,60-62,76-80,82,83,85-105,107-110,112,115,116 and 125-130.

ACKNOWLEDGMENTS

1. The Examiner acknowledges Paper No. 8, filed 8/23/02, wherein claims 1-43 were canceled and claims 44-130 were added.

Note: Claims 44-130 are pending.

RESPONSE TO APPLICANT'S ELECTION

2. Applicant's election wherein Applicant elected Group XIII comprising compounds of Structure D wherein $Z = S$ in Paper No. 8, filed 8/23/02, is acknowledged. In addition, Applicant elected the species of Structure D wherein $R1 = H$; $R2 = CH_3$; $R3 - R7 = H$; $R8 = OR'$; $R' = H$; $R9$ and $R10 = H$; $Y = NR1R2$; and $Z = S$.

Note: Initially, Applicant's elected species was examined. However, since no prior art could be found to reject the elected species, the search was expanded to $Y = NR1R2$; $R1$ and $R2 = H$; $R3 - R6 = H$; $Z = S$; $R7$, $R8$, and $R10 = H$; and $R9 = CH_3$. The search was not further expanded because prior art was found which could be used to reject Applicant's claims.

WITHDRAWN CLAIMS

3. Claims 45-56, 60-62, 76-80, 82, 83, 85-105, 107-110, 112, 115, 116, 125-130 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention/species.

102 REJECTIONS

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1616

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 44, 63, 64, 81, and 117 are rejected under 35 U.S.C. 102(b) as being anticipated by Vitek et al (US Patent No. 5,935,927).

Vitek et al disclose compositions and methods for stimulating amyloid removal in amyloidogenic diseases using advanced glycosylation endproducts (see entire document, especially, abstract). In particular, Vitek et al disclose the use of 2-(4-aminophenyl)-6-methyl benzothiazole in combination with bis(trichloromethyl) carbonate and xylene in generating an advanced glycosylating endproduct (AGE)-modified thioflavin (column 32, Example 3). The structure of 2-(4-aminophenyl)-6-methyl benzothiazole is encompassed in the instant invention when $Y = NR_1R_2$; R_1 and $R_2 = H$; $R_3 - R_6 = H$; $Z = S$; R_7, R_8 , and $R_{10} = H$; and $R_9 = CH_3$.

Thus, Vitek et al disclose a compound/composition that is encompassed within Applicant's Structure D.

6. Claims 44 and 81 are rejected under 35 U.S.C. 102(b) as being anticipated by Scheler (US Patent No. 4,540,648).

Scheler discloses light absorbing dyes (see entire document, especially, abstract; column 3, lines 25-59). In particular, a preferred light-absorbing compound, 6-methyl-2(4-aminophenyl)-benzothiazole (column 6, lines 40-43; columns 15 and 16, Compound No. 2), is disclosed which is encompassed in Applicant's Structure D when $Y = NR_1R_2$; R_1 and $R_2 = H$; $R_3 - R_6 = H$; $Z = S$; R_7, R_8 , and $R_{10} = H$; and $R_9 = CH_3$.

Thus, Scheler discloses a compound that is encompassed within Applicant's Structure D.

ALLOWABLE CLAIMS

7. Claims 44, 57, 58, 63, 64, 84, 106, 111, 113, 114, and 117 are allowable over the prior art for the **elected species only**. In particular, the claims are distinguished over the prior art of record because the prior art neither anticipates nor renders obvious the Applicant's elected species.

8. Claims 59, 65-75, and 118-124 are allowable over the prior art for the **elected species and the expanded species only**.

Note: The search was not expanded beyond the elected species or the expanded species as set forth above.

COMMENTS/NOTES

9. References A17 and A17 are lined through were not considered because they were not present in the file during examination. Applicant is respectfully requested to submit the documents on an information disclosure statement with the next correspondence to the Examiner.

10. Reference A11 which is lined through was not considered because the reference is non-English. Thus, according to 37 CFR 1.98, a concise explanation of non-English documents should be submitted.

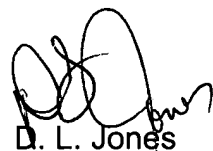
Art Unit: 1616

11. The documents (US Patent Nos. 4,500,340 and 4,540,648) appearing on the PTO-892 are English equivalents of EP 081,141 and EP 118,086, respectively.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (703) 308-4640. The examiner can normally be reached on Mon.-Fri. (alternate Mon.), 6:45 a.m. - 4:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose' Dees can be reached on (703) 308- 4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



D. L. Jones
Primary Examiner
Art Unit 1616

November 1, 2002